

2. Paragraph (c) is revised.

3. In paragraph (d)(2), the fourth sentence is revised.

The revisions and addition read as follows:

§1.664-1 Charitable remainder trusts.

(a) * * * (1) * * * (i) * * * A trust created after July 31, 1969, which is a charitable remainder trust, is exempt from all of the taxes imposed by subtitle A of the Code for any taxable year of the trust, except a taxable year beginning before January 1, 2007, in which it has unrelated business taxable income. For taxable years beginning after December 31, 2006, an excise tax, treated as imposed by chapter 42, is imposed on charitable remainder trusts that have unrelated business taxable income. See paragraph (c) of this section.

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(c) *Excise Tax on Charitable Remainder Trusts*—(1) *In general.* For each taxable year beginning after December 31, 2006, in which a charitable remainder annuity trust or a charitable remainder unitrust has any unrelated business taxable income, an excise tax is imposed on that trust in an amount equal to the amount of such unrelated business taxable income. For this purpose, unrelated business taxable income is as defined in section 512, determined as if part III, subchapter F, chapter 1 subtitle A of the Internal Revenue Code applied to such trust. Such excise tax is treated as imposed by chapter 42 (other than subchapter E) and is reported and payable in accordance with the appropriate forms and instructions. Such excise tax shall be allocated to corpus and, therefore, is not deductible in determining taxable income distributed to a beneficiary. (See paragraph (d)(2) of this section.) The charitable remainder trust income that is unrelated business taxable income constitutes income of the trust for purposes of determining the character of the distribution made to the beneficiary. Income of the charitable remainder trust is allocated among the charitable remainder trust income categories in paragraph (d)(1) of this section without regard to whether any part of that income constitutes unrelated business taxable income under section 512.

(2) *Examples.* The application of the rules in this paragraph (c) may be illustrated by the following examples:

Example 1. For 2007, a charitable remainder annuity trust with a taxable year beginning on January 1, 2007, has \$60,000 of ordinary income, including \$10,000 of gross income from a partnership that constitutes unrelated business taxable income to the trust. The trust has no deductions that are directly connected with that income. For that same year, the trust has administration expenses (deductible in computing taxable income) of \$16,000, resulting in net ordinary income of \$44,000. The amount of unrelated business taxable income is computed by taking gross income from an unrelated trade or business and deducting expenses directly connected with carrying on the trade or business, both computed with modifications under section 512(b). Section 512(b)(12) provides a specific deduction of \$1,000 in computing the amount of unrelated business taxable income. Under the facts presented in this example, there are no other modifications under section 512(b). The trust, therefore, has unrelated business taxable income of \$9,000 (\$10,000 minus the \$1,000 deduction under section 512(b)(12)). Undistributed ordinary income from prior years is \$12,000 and undistributed capital gains from prior years are \$50,000. Under the terms of the trust agreement, the trust is required to pay an annuity of \$100,000 for year 2007 to the noncharitable beneficiary. Because the trust has unrelated business taxable income of \$9,000, the excise tax imposed under section 664(c) is equal to the amount of such unrelated business taxable income, \$9,000. The character of the \$100,000 distribution to the noncharitable beneficiary is as follows: \$56,000 of ordinary income (\$44,000 from current year plus \$12,000 from prior years), and \$44,000 of capital gains. The \$9,000 excise tax is allocated to corpus, and does not reduce the amount in any of the categories of income under paragraph (d)(1) of this section. At the beginning of year 2008, the amount of undistributed capital gains is \$6,000, and there is no undistributed ordinary income.

Example 2. During 2007, a charitable remainder annuity trust with a taxable year beginning on January 1, 2007, sells real estate generating gain of \$40,000. Because the trust had obtained a loan to finance part of the purchase price of the asset, some of the income from the sale is treated as debt-financed income under section 514 and thus constitutes unrelated business taxable income under section 512. The unrelated debt-financed income computed under section 514 is \$30,000. Assuming the trust receives no other income in 2007, the trust will have unrelated business taxable income under section 512 of \$29,000 (\$30,000 minus the \$1,000 deduction under section 512(b)(12)). Except for section 512(b)(12), no other exceptions or modifications under sections 512–514 apply when calculating unrelated business taxable income based on the facts presented in this example. Because the trust has unrelated business taxable income of \$29,000, the excise tax imposed under section 664(c) is equal to the amount of such unrelated business taxable income, \$29,000. The \$29,000 excise tax is allocated to corpus, and does not reduce the amount in any of the categories of income under paragraph (d)(1) of this section. Regardless of how the trust's income might be treated under sections 511–514, the entire \$40,000 is capital gain for purposes of section 664 and is allocated accordingly to and within the second of the categories of income under paragraph (d)(1) of this section.

(3) *Effective/Applicability date.* Paragraph (c) is effective for taxable years beginning after December 31, 2006. The rules that apply with respect to taxable years beginning before January 1, 2007, are contained in 1.664-1(c) in effect prior to the date these regulations are published as final regulations in the **Federal Register**. (See 26 CFR part 1, §1.664-1(c)(1) revised as of April 2, 2007).

(d) * * *

(2) * * * All taxes imposed by chapter 42 of the Code (including without limitation taxes treated under section 664(c)(2) as imposed by chapter 42) and, for taxable years beginning prior to January 1, 2007, all taxes imposed by subtitle A of the Code for which the trust is liable because it has unrelated business taxable income, shall be allocated to corpus. * * *

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Linda E. Stiff,
Deputy Commissioner for
Services and Enforcement.

(Filed by the Office of the Federal Register on March 6, 2008, 8:45 a.m., and published in the issue of the Federal Register for March 7, 2008, 73 F.R. 12313)

Procedures to Request for Public Inspection or Copy a 501(c)(3) Organization's Form 990-T, Exempt Organization Business Income Tax Return

Announcement 2008-21

This document explains the procedures the public may use to request the inspection and copying of a section 501(c)(3) organization's annual return reporting section 511 unrelated business income (Form 990-T).

The Tax Technical Corrections Act of 2007, Pub. L. 110-172, H.R. 4839, provides that the Internal Revenue Service is required to make Forms 990-T that are filed by a section 501(c)(3) organization publicly available for inspection and copying pursuant to section 6104(b). This provision is effective for returns filed after August 17, 2006, the date of enactment of the Pension Protection Act of 2006, Pub. L. 109-280 (PPA).

Form 4506-A, *Request for Public Inspection or Copy of Exempt or Political*

Organization IRS Form, is used to request from the Internal Revenue Service a copy of an exempt or political organization's return, report, or notice pursuant to section 6104(b). The Form 4506-A does not currently contain a check box for a Form 990-T, although the Internal Revenue Service is in the process of revising the Form 4506-A to include this provision. If you want to inspect or copy a Form 990-T that was filed after August 17, 2006, please mail or fax a copy of the Form 4506-A to the Internal Revenue Service following the instructions for that form. In line 7 of the Form 4506-A, however, please write in "Form 990-T". Please be advised that a CD-ROM will not be available for Form 990-T returns. The charges listed on Form 4506-A for copies will apply.

For further information, contact Melinda Williams at 202-283-9467 (not a toll-free number).

Deletions From Cumulative List of Organizations Contributions to Which are Deductible Under Section 170 of the Code

Announcement 2008-22

The Internal Revenue Service has revoked its determination that the organizations listed below qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1986.

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the Service is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on March 31, 2008, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1). For individual contributors, the maximum deduction protected is \$1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

Young Lions Foundation
Sausalito, CA
Med-School, Inc.
Warner Robbins, GA
National Housing Foundation, Inc.
Schaumburg, IL
Vernon Parish School Board
Leesville, VA
Credit Success Company
St. Augustine, FL
Computer Programming Institute
N. Royalton, OH

Modifications of Commercial Mortgage Loans Held by a Real Estate Mortgage Investment Conduit (REMIC); Hearing

Announcement 2008-24

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of public hearing on proposed regulations (REG-127770-07, 2007-50 I.R.B. 1171) that would expand the list of permitted loan modifications to include certain modifications of commercial mortgages.

DATES: The public hearing is being held on Friday, April 4, 2008, at 10:30 a.m. The IRS must receive outlines of the topics

to be discussed at the public hearing by Friday, March 14, 2008.

ADDRESSES: The public hearing is being held in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW, Washington, DC 20224.

Send Submissions to CC:PA:LPD:PR (REG-127770-07), room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday to CC:PA:LPD:PR (REG-127770-07), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC, or sent electronically via the Federal rulemaking Portal at www.regulations.gov (IRS-REG-127770-07).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Diana Imholtz or Susan Thompson Baker (202) 622-3930; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing Funmi Taylor at (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

The subject of the public hearing is the notice of proposed rulemaking (REG-127770-07) that was published in the **Federal Register** on Friday, November 9, 2007 (72 FR 63523).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing that submitted written comments by February 7, 2008 must submit an outline of the topics to be addressed and the amount of time to be allotted to each topic (signed original and eight (8) copies).

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or in the Freedom of Information Reading Room (FOIA RR) (Room 1621) which is located at the 11th and Pennsylvania Avenue, NW, entrance, 1111 Constitution Avenue, NW, Washington, DC.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes